

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DARRELL D. SMITH,

Civil No. 23-357 (JRT/DJF)

Petitioner,

v.

ORDER

WARDEN B. EISCHEN,

Respondent.

Wayne Langston, Reg. No. 21919-040, FPC Duluth, P.O. Box 1000, Duluth, MN 55814, *pro se* petitioner.

Ana H Voss, Kristen Rau, Assistant United States Attorneys, **UNITED STATES ATTORNEY'S OFFICE**, 300 South 4th Street, Suite 600, Minneapolis, MN 55415, for respondent.

United States Magistrate Judge Dulce J. Foster filed a Report and Recommendation (ECF No. 4). No objections have been filed in the time permitted.

Based on the R&R and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Report and Recommendation (ECF No. 4]) is **ADOPTED**; and
2. Petitioner's Petition for a Writ of Habeas Corpus (ECF No. 1) is **DISMISSED IN PART** as follows:
 - a. Grounds 1, 2, and 4 should be **DISMISSED** in their entirety; and

- b. Ground 3 should be **DISMISSED** to the extent that it challenges Petitioner's conviction in *United States v. Less* or the imposition of his sentence or consecutive sentences in *United States v. Smith*.

Dated: July 24, 2023
at Minneapolis, Minnesota

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Court